

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

MODERN PLASTICS CORPORATION,

Debtor.

Case No. DK 09-00651

Hon. Scott W. Dales

Chapter 7

NEW PRODUCTS CORPORATION and
UNITED STATES OF AMERICA by New
Products Corporation,

Plaintiffs,

Adversary Pro. No. 13-80252

v.

THOMAS R. TIBBLE, individually and in his
capacity as Chapter 7 Trustee, and FEDERAL
INSURANCE COMPANY,

Defendants.

ORDER

PRESENT: HONORABLE SCOTT W. DALES
United States Bankruptcy Judge

Plaintiff New Products Corporation ("Plaintiff") filed a complaint against chapter 7 trustee Thomas R. Tibble ("Defendant"), challenging the Defendant's acts and omissions as trustee in connection with the real property commonly known as 489 North Shore Dr., Benton Harbor, Michigan (the "Property"). After the Defendant filed his answer, the parties filed a stipulation, which the court approved, extending until January 6, 2014, the "deadline for the parties to amend their pleadings," presumably under Fed. R. Civ. P. 15(a)(2). On January 6, 2014, the Plaintiff filed an amended complaint (DN 15) which, *inter alia*, added new parties, including the United States as a plaintiff. The court is entering this Order on its own initiative.

The Clerk has informed the court that the Electronic Case Filing ("ECF") system contains no event code for adding a plaintiff by way of a pleading amendment, as Plaintiff evidently intended by filing its amended complaint. The court assumes that this shortcoming reflects the notion that parties may be added or dropped pursuant to order under Fed. R. Civ. P. 21, rather than Fed. R. Civ. P. 15(a).

In order to prevent the technical limitations of the ECF program from foreclosing Plaintiff's argument that it may to add parties *via* amendment,¹ while preserving the litigants' right to challenge the procedure, the court has determined to enter this Order conditionally adding the United States and the Federal Insurance Company as plaintiff and defendant, respectively.

Nothing in this Order should be construed as a finding that either the United States or the Federal Insurance Company is an appropriate or permissible party. Instead, this Order addresses only the technical limits of the ECF system. The court will let the parties address the propriety of the joinder through motion practice if they so desire.

NOW, THEREFORE, IT IS HEREBY ORDERED that the United States and the Federal Insurance Company are added as plaintiff and defendant, respectively, pursuant to Fed. R. Civ. P. 21, subject to the following paragraphs.

¹ Although the parties' stipulation does not mention adding new parties, it is conceivable that the original parties agreed to the joinder of the two new parties. If so, the technical limitations of the court's ECF system should not stand in the way of any such agreement.

IT IS FURTHER ORDERED that the United States, Mr. Tibble, and the Federal Insurance Company may file an objection to the joinder within 21 days after service of this Order.

IT IS FURTHER ORDERED that the Clerk shall serve a copy of this Order pursuant to Fed. R. Bankr. P. 9022 and LBR 5005-4 upon Melissa L. Demorest, Esq., John Chester Fish, Esq., Cody H. Knight, Esq., and the United States Trustee.

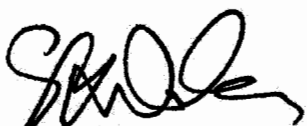
IT IS FURTHER ORDERED that Ms. Demorest shall serve the United States Attorney for the Western District of Michigan and the Federal Insurance Company in accordance with Fed. R. Bankr. P. 7004, and provide prompt proof of such service.

END OF ORDER

IT IS SO ORDERED.

Dated January 9, 2014





Scott W. Dales
United States Bankruptcy Judge